

CIVIL RIGHTS DIVISION

Notice to Close File

File No. 144-37-2001

Date: May 20, 2020

To: Chief, Criminal Section

Re: Unknown – Subjects;  
Eddie Cook (Deceased) – Victim;  
CIVIL RIGHTS

This matter should be closed for reasons described below:

1. Date of the Incident: November 7, 1965
2. Synopsis of the Facts and Reasons for Closing:

On November 7, 1965, Eddie Cook, a 53-year-old sanitation worker and father of three, was shot in the chest by a shotgun blast near his home in the midtown section of Detroit, Michigan. The shot was fired from a car filled with four or five white youths. At the time, the police believed that the shot was in retaliation for an unrelated incident earlier that day. Despite a thorough, contemporaneous investigation, the Detroit Police Department did not identify who fired the shot that killed Mr. Cook, or any of the passengers of the car.

---

Jared Fishman  
Attorney

---

To: Records Section  
Office of Legal Administration

The above numbered file has been closed as of this date.

---

Date

---

Barbara Bosserman  
Deputy Chief, Cold Case Unit Chief, Criminal Section  
FORMERLY CVR – 3 FORM CL - 3

As explained more fully below, a federal prosecution of anyone responsible for Cook's death is not possible. No subjects involved in his death were ever identified, and our review did not identify any additional participants or witnesses to his murder. Even if additional participants or witnesses were identified at this time, the statute of limitations has run on all potential federal hate crimes and there is no other potential basis for federal jurisdiction. The Emmett Till Unsolved Civil Rights Crime Act<sup>1</sup> (Till Act) and its Reauthorization<sup>2</sup> authorize federal authorities to assist state and local jurisdictions in prosecuting cold cases. However, the fact that no other subjects have been identified as participating in Cook's murder would prevent any state prosecution. For these reasons, the case is being closed without prosecution or referral to the state.

### 3. The Death of Eddie Cook and the State Investigation<sup>3</sup>

On November 7, 1965, Eddie Cook, a 53-year-old sanitation worker, was walking near his home in midtown Detroit when he was shot in the chest by a single shotgun blast fired from a moving car with covered license plates. According to witnesses, the car contained 4 or 5 white passengers. Cook was pronounced dead within the hour.

The investigation revealed that earlier that morning, groups of black and white young men engaged in a verbal altercation, during which one of the black young men splashed grape soda and threw a bottle at the white men's car, which witnesses described as a two-tone blue 1955 or 1956 Oldsmobile Coach. When the car began to drive away, one of the young men threw a second bottle that also hit the car.

Approximately an hour later, witnesses reported hearing a loud shotgun blast and then seeing Mr. Cook doubled over. Witnesses also reported seeing the two-tone Oldsmobile drive away and hearing its occupants laughing. Witnesses, however, could not identify the car's license plate because it was reportedly covered with a bag or newspapers.

Following the shooting, a \$500 reward was offered for information leading to the arrest and conviction of the offenders. The police received at least one hundred tips, which they investigated over the course of three months. Despite their efforts, the police investigation did not identify any potential suspects. The investigation concluded without an arrest for the shooting. In the subsequent years, the police received only a single new lead, which was investigated and closed in 1974.

### 4. Federal Investigation

An eligible entity referred this matter to the Department of Justice for review under the Emmett Till Unsolved Civil Rights Crime Act, which charges the Department of Justice to investigate "violations of criminal civil rights statutes . . . result[ing] in a death" that "occurred not

---

<sup>1</sup> Pub. L. No. 110-344, 122 Stat. 3934 (2008).

<sup>2</sup> Pub. L. No. 114-325, 130 Stat. 1965 (2016).

<sup>3</sup> The summary is drawn from the contemporaneous investigation by Detroit Police Department.

later than December 31, 1969.” The eligible entity, however, has not identified any new information or leads that differ from that contained in the state police file. The Department obtained and reviewed the records from the Detroit Police Department’s contemporaneous investigation into the murder, and also looked at contemporaneous news articles and other publicly available information. Although the Department identified two potential leads for further investigation, the Detroit Police Department confirmed that those particular leads had been previously investigated and resolved. The Department of Justice found no additional potential leads to pursue.

## 5. Legal Analysis

This matter is being closed, as it cannot be federally prosecuted. No one believed to be responsible for Cook’s death has been identified. Additionally, there are other barriers to prosecution. In 1965, at the time Cook was murdered, no federal hate crime laws existed. The only federal civil rights laws that existed in 1965 were Reconstruction-Era statutes that would have required proof that anyone charged for the offense was a law enforcement officer or otherwise acted under color of law.<sup>4</sup> Since the time of Cook’s death, Congress has enacted several laws prohibiting bias-motivated violence. But even if subjects were identified in this case, none could be prosecuted for violating these more modern statutes. This is because the Constitution’s *Ex Post Facto* clause, art. I, § 9, cl.3, prohibits the government from prosecuting anyone for violating a law that was not in effect at the time of the alleged misdeed.

No subject could be charged for violating the Reconstruction-Era civil rights statutes that *did* exist at the time of Cook’s death. First, there is no indication that any individual acted under color of law, a fact that would have to be proven beyond a reasonable doubt at trial. Second, the statute of limitations, which is essentially a deadline for bringing a criminal case, has long since passed. At the time of the offense, the Reconstruction-Era statutes were subject to a five-year statute of limitations period. *See* 18 U.S.C. § 3282(a). In 1994, these statutes were amended to eliminate the statute of limitations for certain death-resulting offenses.<sup>5</sup> However, the Constitution’s *Ex Post Facto* clause prohibits the retroactive application of the 1994 increase in penalties and the resultant change in the statute of limitations to the detriment of criminal defendants. *Stogner v. California*, 539 U.S. 607, 610 (2003).

---

<sup>4</sup> Two civil rights statutes were available to prosecutors in 1965. Section 242 of Title 18 prohibited persons acting under color of law from willfully depriving others of constitutional rights.

Section 241 of Title 18 prohibited conspiring to deprive others of rights or privileges secured to them by the Constitution or federal law. Although this provision did not expressly contain a color-of-law requirement, it has been recognized, since the time of Reconstruction, that prosecutors may not charge private citizens with violating Constitutional provisions that served only to limit government power. It thus incorporates a color-of-law requirement for most racially motivated deaths.

<sup>5</sup> This was accomplished by making certain offenses defined by 18 U.S.C. §§ 241 and 242 death eligible. *See* Pub. L. No. 103-322, 108 Stat. 1796 (1994); 18 U.S.C. § 3281 (“An indictment for any offense punishable by death may be found at any time without limitation.”).

The Department of Justice has used non-civil rights statutes to overcome the statute of limitations challenge in a small number of cases, such as those involving kidnapping across state lines, *see United States v. Seale*, 600 F.3d 473 (5th Cir. 2010), or offenses occurring on federal land, *see United States v. Avants*, 367 F.3d 433, 440 (5th Cir. 2004). The available evidence in this case, however, does not support a finding that Cook was transported across state lines or that he was killed on federal land.

The Till Act and its Reauthorization provide that the federal government can assist state or local governments in prosecuting cold cases when the cases cannot be prosecuted federally. Referral to the state is not appropriate here. No individual has been identified as a suspect in Cook's death. No one has come forward with information identifying any additional subjects; nor has the government's own review identified any such subjects.

In sum, the Civil Rights Division concludes that this matter should be closed without prosecution or referral to the state. The United States Attorney's Office for the Eastern District of Michigan concurs with this recommendation.